

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DANIEL LICEA JIMENEZ,

Petitioner,

v.

LARRY SMALL, Warden, et al.,

Respondents.

Case No. 09cv2031 BTM(NLS)

**ORDER ADOPTING REPORT AND
RECOMMENDATION; GRANTING
IN PART AND DENYING IN PART
MOTION TO DISMISS; DISMISSING
PETITION WITH PREJUDICE; AND
DENYING A CERTIFICATE OF
APPEALABILITY**

In a Report and Recommendation filed on November 18, 2009, Magistrate Judge Stormes recommends that Respondent's motion to dismiss the Petition for Writ of Habeas Corpus ("Petition") be granted in part and denied in part and that the Petition be dismissed with prejudice. No objections to the Report and Recommendation have been filed.

The Court concludes that the Report and Recommendation correctly applies the relevant law to the record. For the reasons set forth in the Report and Recommendation, Petitioner's Petition is barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d). Therefore, the Court orders:

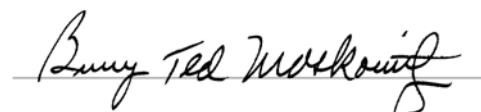
1. The Report and Recommendation filed on November 18, 2009 is **ADOPTED** as the decision of this Court.
2. Respondent's Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**.

- 1 2. The Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE**.
- 2 3. A Certificate of Appealability is **DENIED**.
- 3 4. The Clerk shall enter judgment dismissing the Petition with prejudice and
- 4 denying a Certificate of Appealability.

5 **IT IS SO ORDERED.**

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7 DATED: April 13, 2010

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9 Honorable Barry Ted Moskowitz
10 United States District Judge

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